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8
9
10 *Attorneys for Defendants International Brotherhood
11 of Teamsters Local 631*

12
13
14
15 UNITED STATES DISTRICT COURT
16
17 DISTRICT OF NEVADA

18 MICHAEL MILLER,

19 Plaintiff,

20 vs.

21 INTERNATIONAL BROTHERHOOD OF
22 TEAMSTERS, LOCAL 631; DOES 1
23 through 10, inclusive; ROE
24 CORPORATIONS 1 through 10, inclusive

25 Defendant.

Case No.

**NOTICE OF REMOVAL OF ACTION
UNDER 28 U.S.C. §§ 1331 AND
1441(a); 29 U.S.C. § 185(a)
(FEDERAL QUESTION)**

26 To the Clerk of the United States District Court for the District of Nevada:

27 PLEASE TAKE NOTICE THAT pursuant to 28 U.S.C. §§ 1441 and 1446, Defendant
28 International Brotherhood of Teamsters, Local 631 (“Defendant” or “Local 631”) hereby
removes to this Court the state court action described below.

29 1. On or about August 24, 2021, an action was commenced in the Eighth Judicial
30 District Court of the State of Nevada for Clark County, Nevada. The case is entitled Michael
31 Miller, Plaintiff, vs. International Brotherhood of Teamsters, Local 631 *et al.* Defendants. The

1 case was assigned number A-21-839999-C and the Complaint is attached hereto as Exhibit A.

2 2. The first date on which Defendant Local 631 received a copy of said complaint
3 was on or about August 25, 2021, when Defendant was served with a copy of the said complaint
4 and a summons from the said state court. A copy of the summons is attached hereto as Exhibit
5 B.

6 3. On September 1, 2021 the parties filed a Stipulation, Request, and Order
7 Extending Time to Respond to Plaintiff's Complaint ("Stipulation"), which was granted by the
8 court that same day. Pursuant to that Order, Defendant Local 631's response to Plaintiff's
9 Complaint was due on October 4, 2021. A copy of the Stipulation is attached hereto as Exhibit
10 C. The Complaint, Summons, and Stipulation constitute all process, pleadings and orders
11 served upon Local 631 in this action.

12 4. This action is a civil action of which this Court has original jurisdiction under 28
13 U.S.C. section 1331, and is one which may be removed to this Court by Defendant pursuant to
14 the provisions of 28 U.S.C. section 1441(a) in that the first—and only—cause of action for
15 breach of the duty of fair representation arises under 29 U.S.C. section 185(a). The Complaint
16 alleges that Local 631 violated the duty of fair representation that it owed to Plaintiff as the
17 collective bargaining representative for Plaintiff. *See* Complaint, ¶¶ 11–15. The first cause of
18 action arises under federal law, and is therefore removable under 28 U.S.C. § 1441(a). *Harper*
19 *v. San Diego Transit Corp.*, 764 F.2d 663, 667 (9th Cir. 1985).

20 5. There are no other defendants named in the suit other than Local 631.

21 6. Venue is proper in the United States District Court for the District of Nevada
22 because this action was brought in the Eighth Judicial District Court for Clark County, Nevada.

23 7. This Notice of Removal is filed in this Court within thirty days after Local 631
24 received notice of this action; and within one year of commencement of the action.

25 8. Written notice of the filing of this Notice of Removal will be served on Plaintiff's
26 counsel on the same date that this Notice is filed. There are no other parties to this action.

27 9. A true and correct copy of this Notice will be filed with the Clerk of the Court of
28 the Eighth Judicial District Court for Clark County, Nevada.

Date: September 14, 2021

Respectfully submitted,

McCRACKEN, STEMERMAN & HOLSBERRY

BY: /s/ Richard G. McCracken
Richard G. McCracken, SBN#2748
1630 S. Commerce Street, Suite A-1
Las Vegas, NV 89102
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*Attorneys for Defendants International
Brotherhood of Teamsters, Local 631*

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

MICHAEL MILLER,

Case No.

Plaintiff,

VS.

INTERNATIONAL BROTHERHOOD OF
TEAMSTERS, LOCAL 631; DOES 1
through 10, inclusive; ROE
CORPORATIONS 1 through 10, inclusive

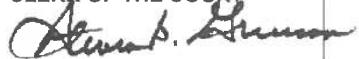
INDEX OF EXHIBITS

Defendant.

Exhibit	Description
A	Complaint
B	Summons
C	Stipulation

Exhibit A - Complaint

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Steven D. Grierson
CLERK OF THE COURT



1 **COMJD**
2 TREVOR J. HATFIELD, ESQ.
3 Nevada Bar No. 7373
4 **HATFIELD & ASSOCIATES, LTD.**
5 703 South Eighth Street
6 Las Vegas, Nevada 89101
7 (702) 388-4469 Tel.
8 (702) 386-9825 Fax
9 thatfield@hatfieldlawassociates.com

CASE NO: A-21-839999-C
Department 25

10 *Attorney for Plaintiff*

11 **EIGHTH JUDICIAL DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 MICHAEL MILLER, an individual,

CASE NO:
DEPT NO:

14 Plaintiff,

15 vs.

16 [JURY TRIAL DEMANDED]

17 INTERNATIONAL BROTHERHOOD OF
18 TEAMSTERS, LOCAL 631, a domestic not for
19 profit corporation; DOES I through X, inclusive;
20 ROE CORPORATIONS I through X, inclusive,

21 Defendants.

22 COMES NOW, Plaintiff MICHAEL MILLER (hereinafter, "Plaintiff"), by and through his
23 counsel, the law firm of Hatfield & Associates, Ltd., and alleges upon information and belief
24 against the above-captioned Defendant INTERNATIONAL BROTHERHOOD OF TEAMSTERS,
25 LOCAL 631 (hereinafter "Defendant") as follows:

26 1. At all times relevant hereto, Plaintiff, residing in Las Vegas Nevada, was and is an
27 individual residing in the State of Nevada and was employed by Republic Services of Southern
28 Nevada.

29 2. At all times relevant hereto, Plaintiff was a member of a union when employed by
30 Republic Services of Southern Nevada.

31 ///

1 3. At all times relevant hereto, Defendant was and is a collective bargaining union
2 organizing members in and conducting business in the State of Nevada, or is, based upon Plaintiff's
3 information and belief, a union conducting business on a regular and continuing basis in Nevada.
4 Defendant is engaged in the business of union representation and collective bargaining.

5 4. All acts which form the basis of this complaint occurred during Plaintiff's
6 termination of employment with Republic Services of Southern Nevada as a truck driver while a
7 union member with Defendant.

8 5. All of the acts alleged herein and or failures alleged herein were duly performed by
9 and or are attributable to Defendant, acting by and through their agents and employees. Said acts
10 and or failures to act were within the scope of said agency and or employment, and Defendant
11 ratified said acts and or omissions.

12 6. The true names or capacities, whether individual, corporate, association or
13 otherwise, of Defendants DOES I through X, and ROE CORPORATIONS I through X, are
14 unknown to Plaintiff, who therefore sues said Defendants by such fictitious names. Plaintiff is
15 informed and believes and therefore alleges that each of the Defendants designated herein as a DOE
16 and a ROE CORPORATION are responsible in some manner for the events and happenings
17 referred to and caused damages proximately to the Plaintiff as herein alleged. Plaintiff will ask
18 leave of this Court to amend its Amended Complaint to insert the true names and capacities of
19 DOES I through X, and ROE CORPORATIONS I through X, when the same have been ascertained
20 and to join such Defendants in this action.

21 7. Plaintiff was terminated by his employer Republic Services of Southern Nevada
22 from his employment as a garbage truck driver on August 13, 2020. He grieved his termination.
23 Defendant appointed attorneys to represent him.

24 ///

25

1 8. Defendant's attorneys notified Plaintiff's employer of Plaintiff's intent to arbitrate
 2 Plaintiff's termination on October 1, 2020, and that, according to the Collective Bargaining
 3 Agreement between Plaintiff's employer and Defendant, as Plaintiff (via his attorneys) was the
 4 invoking party, a panel of arbitrators was due to be requested within 30 days of the notice of intent
 5 to submit his grievance to arbitration.
 6

7 9. The request for a panel of arbitrators was not submitted to Plaintiff's employer until
 8 November 20, 2020. The request was determined to have been untimely submitted according to the
 9 Decision of the Arbitrator, Mr. Mario Bognanno.

10 10. The Arbitrator's Decision of June 6, 2021 found that Plaintiff's grievance was not
 11 arbitrable because the request for an arbitration panel was not timely submitted and Mr. Miller
 12 therefore lost his arbitration.
 13

CAUSES OF ACTION

FIRST CAUSE OF ACTION

(Breach of Duty of Fair Representation)

17 11. Plaintiff incorporates by reference the allegations set forth in the preceding
 18 paragraphs of the First Amended Complaint as though set forth at length herein.

19 12. Plaintiff's union, Defendant, was obligated to represent him pursuant to a collective
 20 bargaining agreement (CBA) between Plaintiff's employer and his union, Defendant. Plaintiff
 21 timely requested that the CBA violations he and others experienced be addressed and corrected and
 22 his termination be aggrieved and arbitrated, but Defendant failed to properly represent Plaintiff.
 23

24 13. As a direct and proximate result of Defendant's failure to fairly represent him,
 25 Plaintiff has suffered lost wages, lost benefits, lost seniority, lost future earnings, and lost
 26 employment opportunities in an amount to be determined at trial. Therefore, Plaintiff seeks all
 27 legal and equitable remedies available at law.
 28

14. As a further result of Defendant LOCAL 165's above-stated actions, it has been necessary for Plaintiff to obtain the services of the law offices of Hatfield & Associates, Ltd., to prosecute this action, and Plaintiff is entitled to reimbursement for those attorney's fees and costs which have been reasonably incurred.

15. Plaintiff demands a jury trial.

REQUEST AND PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment and damages against Defendant as follows:

9 1. An award to Plaintiff for compensatory damages in amount to be shown at trial for past
10 and future economic and non-economic losses within this Court's jurisdiction subject to proof;

2. An award to Plaintiff for exemplary and/or punitive damages;

3 3. An award to Plaintiff for reasonable attorney's fees and costs, including but not limited
4 to expert witness fees, and as provided under state law;

4. An award to Plaintiff of interest on any awards at the highest rate allowed by law; and

6 5. Such other and further relief as this Court deems just and appropriate.

Dated this 24th day of August 2021.

HATFIELD & ASSOCIATES, LTD.

By: /s/ Trevor J. Hatfield

Trevor J. Hatfield, Esq. (SBN 7373)
703 South Eighth Street
Las Vegas, Nevada 89101
(702) 388-4469 Tel.
thatfield@hatfieldlawassociates.com
Attorney for Plaintiff

Exhibit B – Summons

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1 TREVOR J. HATFIELD, ESQ.
2 Nevada Bar No. 7373
3 **HATFIELD & ASSOCIATES, LTD.**
4 703 South Eighth Street
5 Las Vegas, Nevada 89101
6 (702) 388-4469 Tel.
7 (702) 386-9825 Fax
8 thatfield@hatfieldlawassociates.com

9
10 *Attorney for Plaintiff*

RECEIVED

AUG 25 2021

Teamsters Local 631

CASE NO: A-21-839999-C
Department 25

7 **EIGHTH JUDICIAL DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

9
10 MICHAEL MILLER, an individual,

CASE NO:
DEPT NO:

11 Plaintiff,

SUMMONS

12 vs.
13 INTERNATIONAL BROTHERHOOD OF
14 TEAMSTERS, LOCAL 631, a domestic not for
15 profit corporation; DOES I through X, inclusive;
16 ROE CORPORATIONS I through X, inclusive,
17 Defendants.

18 TO THE DEFENDANT(s): A Civil Complaint has been filed by Plaintiff against you for the
19 relief set forth in the Complaint.

20 INTERNATIONAL BROTHERHOOD OF TEAMSTERS, LOCAL 631

21 c/o Resident Agent Patrick Domholdt

22 700 North Lamb

23 Las Vegas, Nevada 89110

24 1. If you intend to defend this lawsuit, within 20 days after this Summons is served on you
25 exclusive of the day of service, you must do the following:

26 a. File with the Clerk of this Court, whose address is shown below, a formal written response
27 to the Complaint in accordance with the rules of the Court.

1 b. Serve a copy of your response upon the attorney whose name and address is shown
2 below.

3 2. Unless you respond, your default will be entered upon application of the Plaintiff and this
4 Court may enter a judgment against you for the relief demanded in the Complaint, which could
5 result in the taking of money or property or other relief requested in the Complaint.
6

7 3. If you intend to seek the advice of an attorney in this matter, you should do so promptly so
8 that your response may be filed on time.

9 Issued at the direction of:

STEVEN D. GRIERSON

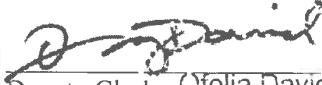
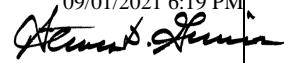
<p>HATFIELD & ASSOCIATES, LTD.</p> <p>/s/ Trevor J. Hatfield</p> <hr/> <p>TREVOR J. HATFIELD Nevada Bar No. 7373 HATFIELD & ASSOCIATES, LTD. 703 South Eighth Street Las Vegas, Nevada 89101 (702) 388-4469 Tel. (702) 386-9825 Fax hatfield@hatfieldlawassociates.com Attorneys for Plaintiff</p>	<p>CLERK OF THE COURT</p>  <p>8/25/2021</p> <p>Deputy Clerk Ofelia David Regional Justice Center 200 Lewis Avenue Las Vegas, Nevada 89101</p>
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Exhibit C – Stipulation

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CLERK OF THE COURT

1 SAO
2 Richard G. McCracken, SBN #2748
3 McCACKEN, STEMERMAN & HOLSBERRY, LLP
4 1630 S. Commerce Street, Suite A-1
5 Las Vegas, NV 89102
6 Phone: (702) 386-5107
7 Fax: (702) 386-9848
8 Email: rmccracken@msh.law
9 *Attorneys for Defendants Teamsters, Chauffeurs, Warehousemen, & Helpers Local*
10 *631*

11
12 DISTRICT COURT
13 EIGHTH JUDICIAL DISTRICT
14 CLARK COUNTY, NEVADA

15
16 MICHAEL MILLER, an individual

17 Case No.: A-21-839999-C
18 DEPT. NO.: XXV

19 Plaintiff,
20 vs.
21

22 INTERNATIONAL BROTHERHOOD OF
23 TEAMSTERS, LOCAL 631, a domestic not
24 for profit corporation; DOES I through X,
25 inclusive; ROE CORPORATIONS I
26 through X, INCLUSIVE,
27
28

29 STIPULATION, REQUEST, AND
30 ORDER EXTENDING TIME TO
31 RESPOND TO PLAINTIFF'S
32 COMPLAINT

33 Defendants.

34 STIPULATION

35 Case No.: A-21-839999-C

Defendant International Brotherhood of Teamsters, Local 631 (“Local 631”) by
and through its attorney, Richard G. McCracken, Esq. and Plaintiff Michael Miller, by
and through his attorney Trevor J. Hatfield, Esq. hereby respectfully submit this
Stipulation, Request, and Order Extending Time to respond to Plaintiff’s Complaint.
This Stipulation is made in accordance with Nevada Rule of Civil Procedure 6(b)(1)(A).

Plaintiff's Complaint was served on Local 631 on August 25, 2021. According to Nevada Rule of Civil Procedure 12(a)(1)(i), Local 631's response would be due on September 14, 2021. This request is filed before that date. The below extension of time is requested to allow Local 631 additional time to investigate and prepare its response to Plaintiff's Complaint.

11 Upon agreement between all the parties, the undersigned respectfully requests
12 the Court grant an extension of time to October 4, 2021 for Local 631 to file its response
13 to Plaintiff's Complaint.

ORDER

IT IS THEREFORE ORDERED that the parties' request for an extension of time is GRANTED. Defendant International Brotherhood of Teamsters, Local 631's response to Plaintiff's Complaint shall be filed on October 4, 2021.

18 | IT IS SO ORDERED.

20 | Dated this ____ day of August, 2021

Dated this 1st day of September, 2021

HON. KATHLEEN E. DELANEY

**588 DA5 147B 1500
Kathleen E. Delaney
District Court Judge**

24 | //

25 | //

26 | //

27 | III

28 //

1

1 Respectfully submitted by,

2

3 Dated this 31st day of August, 2021 McCRACKEN, STEMERMAN & HOLSBERRY

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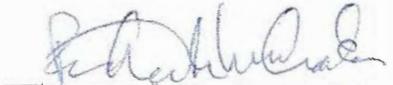
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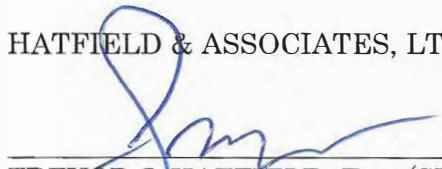
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*Attorneys for Defendants Teamsters,
Chauffeurs, Warehousemen, & Helpers Local
631*


HATFIELD & ASSOCIATES, LTD.


TREVOR J. HATFIELD, Esq. (SBN 7373)
HATFIELD & ASSOCIATES, LTD.
703 South Eighth Street
Las Vegas, Nevada 89101

Attorneys for Plaintiff Michael Miller

STIPULATION

CERTIFICATE OF SERVICE

I hereby certify that on the 31st day of August, 2021, I served a true and correct copy of the following document:

**STIPULATION, REQUEST, AND ORDER EXTENDING TIME TO
RESPOND TO PLAINTIFF'S COMPLAINT**

by electronic filing and by placing it in the United States mail, with first-class postage prepaid, addressed to the following:

TREVOR J. HATFIELD, Esq. (SBN 7373)
HATFIELD & ASSOCIATES, LTD.
703 South Eighth Street
Las Vegas, Nevada 89101
thatfield@hatfieldlawassociates.com

Attorneys for Plaintiff Michael Miller

Per NRS 53.045, I declare under penalty of perjury that the foregoing is true and correct. 

Katherine Pierre
Katherine Pierre

1 CSERV
2

3 DISTRICT COURT
4 CLARK COUNTY, NEVADA

5
6 Michael Miller, Plaintiff(s) CASE NO: A-21-839999-C
7 vs. DEPT. NO. Department 25
8 International Brotherhood of
9 Teamsters, Local 631,
10 Defendant(s)

11 **AUTOMATED CERTIFICATE OF SERVICE**
12

13 This automated certificate of service was generated by the Eighth Judicial District
14 Court. The foregoing Stipulation and Order was served via the court's electronic eFile system
15 to all recipients registered for e-Service on the above entitled case as listed below:

16 Service Date: 9/1/2021

17 Trevor Hatfield thatfield@hatfieldlawassociates.com
18 Freda Brazier freda@hatfieldlawassociates.com
19 Richard McCracken rmccracken@msh.law

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